

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HASSAN ALI,

Plaintiff(s),

v.

STERICYCLE, INC., et al.,

Defendant(s).

No. C 11-4094 PJH

**ORDER GRANTING MOTION TO
REMAND AND DENYING MOTION
TO DISMISS**


Before the court are plaintiff's motion to remand and defendants Davis and Del Rio's motion to dismiss, both premised on the same issue – whether the two individual defendants are “sham” defendants which would destroy diversity jurisdiction. The court has reviewed the briefs and supporting papers of the parties and determined that oral argument would not be helpful. Based upon this review, the court finds that plaintiff has stated a viable claim of intentional infliction of emotional distress against the two individual defendants. While defendants' merits based argument might well suggest that plaintiff may have difficulty proving their conduct was extreme and outrageous, the court finds that for pleading purposes, the factual allegations are sufficient. Moreover, even if the court was persuaded that the factual allegations were deficient, any dismissal would be with leave to amend, as there is no basis for finding that amendment would be futile. Thus, both defendants would remain in the case and the court would be divested of diversity

1 jurisdiction. Accordingly, the motion to remand is GRANTED and the motion to dismiss is
2 DENIED.

3 This matter is hereby remanded to the Alameda County Superior Court. The
4 January 11, 2012 hearing date is VACATED.

5 **IT IS SO ORDERED.**

6 Dated: December 22, 2011

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9 PHYLLIS J. HAMILTON
10 United States District Judge
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